



Applicant has carefully studied this reference in view of the Examiner's reasoned statements for rejection in paragraph 2 of the Action. Applicant, in view of the arguments and distinctions provided below respectfully requests reconsideration of this rejection.

Allbrighton does not describe an anti-skinning layer integrated or lined onto the container surface which is adapted to retain a layer of formulation. In fact, Allbrighton quite clearly states on page 1, line 2 that the invention is a "disc insert" that is used to float on top of the formulation of a partially used pail of paint. Please refer to Figure 8 of this reference. The system disclosed in Allbrighton substantially prevents the formulation coming into contact with the formulation vapor in the container. This exclusion of contact between the formulation and the vapor prevents skinning that arises from oxidative polymerization of alkyd paints. This clearly is not the intended or claimed purpose of the present invention. Please see the passage bridging pages 1 and 2 of the specification and also the paragraph on page 2 immediately preceding the heading "Summary of the Invention". In contrast, the method of the present invention as defined in claims 88-91 and the sealing means as claimed in claims 93-95, 98, 99, 104 and 105 do not exclude the formulation vapor from coming into contact with the formulation in the container. Nor is there a disc or insert used that has to be removed prior to use of the paint. Furthermore, the anti-skinning layer is disclosed and claimed as being integrated or lined into the surface of the container or the sealing means. This distinguishing feature is made clear from the Examples as well as the entire disclosure of the present specification. There is no teaching or even implicit explicit or thought in the present specification that the anti-skinning layer is anything other than a layer attached to or integrated into the container sides or the lid of the container.

A floating disc or disc insert simply is not contemplated by the teaching of the present invention. Furthermore, the claims are asserted to exclude this option because of the wording

“wherein the antiskinning layer... is capable of retaining a layer of the formulation without excluding the formulation vapor from contacting the formulation”. The wording in claims 88 and 93 “the layer being located on at least a portion of the internal surface” is used to convey that the entire internal surface of the container or lid does not have to include the antiskinning layer – a fraction of coverage also serves the same purpose. The present invention provides a method that involves a mechanism for reducing skinning that occurs as a result of the loss of solvent or water from the formulation, rather than the oxidative polymerization mentioned above. In other words a completely different mechanism achieves the desired result by distinctive means.

Graham et al., U.S. Patent No. 4,691,838 is cited as anticipating claims 88-91, 93-96, 104 and 105. This reference is noted to describe a flexible layer (moist pad) this is not integrated into the container surface or the surface of the sealing means. The disc of flexible material of Graham et al. has to be removed to use the paint. This is again in contrast to the method of the present invention as defined in claims 88-91 as well as the sealing means claimed in claims 93-96, 104 and 105 as these claims do not exclude the formulation vapor from coming into contact with the formulation in the container. Nor is there a disc or insert used that has to be removed to use the paint. The present invention provides a method and sealing means that involve a mechanism for reducing skinning that occurs as a result of the loss of solvent or water from the formulation, rather than the oxidative polymerization mentioned above which is what the invention of Graham discloses and claims.

Claims 97 and 100 are rejected as being obvious in light of Allbrighton in view of Merritt. Both of these claims (97 and 100) are dependent on claim 93 which recites “the layer being located on at least a portion of the internal surface” of the sealing means or container. When this passage is read in light of the specification, it is respectfully submitted that there is no

suggestion that this would extend to a disc insert or a separate floating cover that sits on the paint, the sole purpose of which is to exclude the formulation from coming into contact with the formulation vapor in the ullage space of the container.

The gauze lining of claim 97 of the presently claimed invention and the antiskinning layer having a thickness defined in claim 100, still through dependency on claim 93 require that the antiskinning layer has to be located on or lined onto the internal surface of the sealing means (i.e., the lid of the paint container), which is simply not explicitly taught or suggested by either of Allbrighton or Merritt. In Merritt, the lid of the container is shown as 4 in Fig. 4. This Figure clearly shows that the purpose of the invention or bag insert 28 as shown in Fig. 4 of Merritt is to exclude the liquid formulation coming into contact with the formulation vapor in the ullage space of the container between the lid and liquid formulation. Accordingly, for these reasons the Applicants respectfully submit that claims 97 and 100 are not obvious in light of Allbrighton and Merritt.

Claims 101-103 are rejected as being obvious in light of Allbrighton and further in view of Hamada. The reference Hamada has been developed to enable a drum used for carrying liquids to be recycled so that the drum does not become contaminated with the liquid contents or residue from the liquid contents of the drum. A lining is disclosed in Hamada and is taught to be removable and replaceable. This is not the intention in the present invention. Accordingly, Applicants consider that claims 101-103 are not obvious in light of Allbrighton and Merritt.

Furthermore, as all of the claimed elements are not disclosed in either reference standing alone or in combination, if combination were legally permissible, Applicant fails to recognize a prima facie basis for maintaining the rejection.

In view of the foregoing, Applicant respectfully asserts that the claimed invention is patentably distinguished over the art of record as no single reference meets the legal requirements to maintain an anticipation rejection by disclosing all of the elements of the claimed invention. As there is no expressed or implicit motivation for combination of any reference to raise, much less maintain as obviousness rejection, Applicant requests the early issuance of the Notice of Allowance.

Date: \_\_\_\_\_

8/24/05

Respectfully Submitted,

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I hereby certify that this paper is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Date: August 24, 2005

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